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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,842	02/01/2001	Dirk-Holger Lenz	7058 US	1158

7590

09/07/2004

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EXAMINER

CRAIG, DWIN M

ART UNIT

PAPER NUMBER

2123

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,842

Applicant(s)

LENZ ET AL.

Examiner

Dwin M Craig

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. **Claims 1-17** have been presented for Examination. **Claims 1-17** have been Examined and rejected.

Claim Objections

2. **Claim 5** is objected to because of the following informalities: Claim 5 is written as a dependent Claim however it does not reference any of the independent or dependent claims, *more specifically, Claim 5 recites... "The apparatus as recited in claim wherein..."* no claim number is present. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Independent **Claims 1 and 16** and dependent **Claims 2, 3, 5 and 7-12** are rejected as being clearly anticipated by **Pearson U.S. Patent 5,903,754**.

3.1 As regards independent **Claims 1 and 16** the *Pearson* reference teaches, apparatus/method of creating a protocol stack (**Figure 1 & 2, Col. 5 Lines 66-67, Col. 6 Lines 1-16**), with a standardized interface (**Figure 3 Items 102, 104, Figure 5 Item 150**), an instance for the administration of the protocol stack that contains a protocol layer (**Figure 6 Item 162**).

3.2 As regards dependent **Claims 2 and 3** the *Pearson* reference discloses a plurality of description files (**Figure 1 Items 42 and 44**).

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3.3 As regards dependent **Claim 7** the *Pearson* reference discloses multiple layers of protocol stacks (**Figure 3**).

3.4 As regards dependent **Claims 5, 8-12** the *Pearson* reference discloses a SAP interface (**Figure 5 Item 150**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Independent **Claim 17** and dependent **Claims 4, 6 and 13-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Pearson U.S. Patent 5,903,754** in view of **Autrey et al. U.S. Patent 5,774,695**.

4.1 As regards independent **Claim 1** see paragraph 3.1 above.

4.2 As regards independent **Claim 17** and dependent **Claims 4 and 6** the *Pearson* reference teaches all of the claimed limitations except for a plurality of emulation managers (*see paragraph 3.1 above*).

The *Autry et al.* reference discloses a plurality of emulation managers (**Figure 6 Item 68, Figure 7 Item 84, Figure 9 Item 92 and 95, Figure 10**).

It would have been obvious, to one of ordinary skill, in the art, at the time the invention was made, to have added an emulation manager to the protocol creation method/apparatus of the *Pearson* reference because an emulation tool can be used to quickly test and evaluate the protocol that was just created.

4.3 As regards dependent **Claims 13-15** the *Pearson* reference does not expressly disclose a GUI.

The *Autrey et al.* reference discloses a GUI (**Figures 10-16A**).

It would have been obvious, to one of ordinary skill in the art, at the time the invention was made to have provided a GUI for configuration of the protocol stack because of the ease of use provided by an interactive visual representation of the components being put together by the programmer to create said protocol stack and the advantage provided by the increase in productivity realized by providing an easy to use programming interface.

Conclusion

5. This action is **NON-FINAL**. Claims 1-17 have been presented for examination. Claims 1-17 have been examined and rejected.

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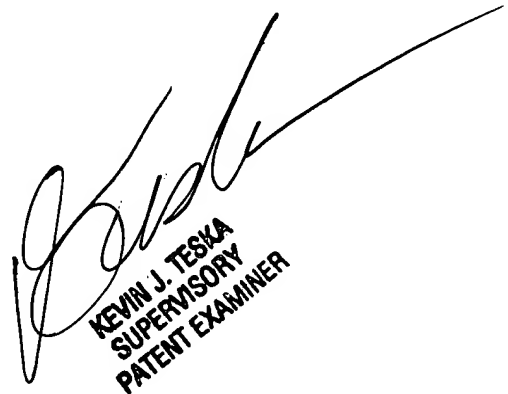
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5.1 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwin M Craig whose telephone number is 703 305-7150. The examiner can normally be reached on 10:00 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703 305-9704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMC


KEVIN J. TESKA
SUPERVISORY
PATENT EXAMINER